

BOARD OF FORESTRY AND FIRE PROTECTION

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**BOARD OF FORESTRY AND FIRE PROTECTION MEETING
SANTA CRUZ, CA
AUGUST 3, 2006**

MINUTES**BOARD MEMBERS PRESENT**

Stan Dixon, Chairman
Gary Ryneearson
Jim Ostrowski
David Nawi
Pam Giacomini
Bruce Saito

MEMBERS ABSENT

Kirk Marckwald, Vice Chair
Mark Bosetti

BOARD STAFF

George Gentry, Executive Officer
Eric Huff, Executive Officer, Foresters Licensing
Chris Zimny, Regulations Coordinator
Carol Horn, Executive Assistant
Laura Alarcon-Stalians, Staff Services Analyst

DEPARTMENT STAFF

Bill Synder, Deputy Director, Resource Management
Dave Hillman, Deputy Director for Fire Prevention and
Law Enforcement
Dennis Hall, Staff Chief, Resource Management
John Ferrera, San Mateo-Santa Cruz Unit Chief

CALL TO ORDER

Chairman Dixon called the Board of Forestry and Fire Protection to order.

ADJOURN TO EXECUTIVE SESSION

There was no executive session.

APPROVAL OF MINUTES FROM JULY 2006

The July minutes will be available at the September meeting for approval.

CONSENT CALENDAR

No report.

REPORT OF THE CHAIRMAN.

No report.

REPORT OF THE DIRECTOR/DEPARTMENT

Chief Hillman reported that CDF fires have quieted down. Most of the fires were caused from lightning. Chief Hillman said the USFS has quite a few fires, including seven complexes, mostly in northern California. CDF has two arson investigations on-going. They made two arrests, and the individuals arrested were responsible for over 100 fires apiece. Chief Hillman reported that John Hawkins was appointed as the new unit Chief for the Riverside Unit. After the fire siege occurred, Chief Grijalva held meetings and conference calls to reaffirm what CDF will do for the remaining fire season. Plans are to staff engines with one additional person to 4.0 staffing, on a as needed basis, to meet needs statewide. CDF will rehab personnel (hold over for at least 12 hours) before their next fire assignment. Lookouts will be manned by CDF Volunteers-in-Prevention and paid staff as needed. The Unified Command System has been working very well.

Mr. Bill Synder, Deputy Director for Resource Management said the Department is working on Climate and Climate Action Team activities. This inter-agency effort is being coordinated by CalEPA, who is responsible for the work plan, while CDF has a specific piece of the plan as it relates to Resource Management: reforestation, fuel treatment, urban forestry, and forest management.

Chief John Ferrera, Unit Chief for San Mateo-Santa Cruz, welcomed the Board to his Unit. Chief Ferrera reported that the San Mateo-Santa Cruz Unit keeps 100% of their fires below five acres. The conversion from Youth Authority to Department of Corrections has been made at Ben Lomond Camp. The Unit is very happy with the CDC inmates. The Unit has begun reviewing a Non-Industrial Timber Management Plan with the San Jose Water District. The Unit is working on improving fire protection in San Jose by responding to a Request for Proposal to provide fire protection to the Half Moon Bay Fire District.

PUBLIC COMMENT

Mr. Kevin O'Meara, representing CDF Firefighters, thanked the Board for their support and letter to the Governor's Office on the inversion issue. So far, there has been no resolution. CDF Firefighters will continue to work with the legislature. Recently Unit 8 agreed to a change in their contract. CDF Firefighters feel the inversion problem is getting worse.

REPORT OF THE CALIFORNIA OAK MORTALITY TASK FORCE (COMTF)

Mr. Mark Stanley, Chairman of the California Oak Mortality Task Force, gave an update on the Task Force. A copy of Mr. Stanley's presentation was included in the Board Binder. The Sudden Oak Death Science Symposium III will be held in Santa Rosa on March 5-9, 2007.

REPORT OF BOARD'S ADVISORY COMMITTEES

Forest Pest Council

No report.

Range Management Advisory Committee

No report.

Monitoring Study Group

The Executive Officer gave an update on the Monitoring Study Group. A copy of the presentation was included in the Board Binder. The MSG has not met since the last Board meeting. It is anticipated that the next MSG meeting will be held in the Willits area during the week of September 4th. The MSG draft revised Strategic Plan is posted on the MSG website at: <http://www.fob.fire.ca.gov/pdfs/MSGStrategicPlan>.

Professional Foresters Examining Committee.

Mr. Eric Huff, Executive Officer, Foresters Licensing, requested Board action on a number of RPF/CRM requests for change in status:

Those requesting Withdrawal: John Torrens, RPF No. 1356
 Donald Stickers, RPF No. 1422

Those requesting Reinstatement: Kenneth Bird, RPF No. 467.

Those requesting Voluntary Relinquishment: Raymond Utterback, RPF No. 829,
 James Lindquist, RPF No. 661
 Patrick C. Jackson, RPF No. 1899.

**08-03-10: Member Ryneanson moved to approve the PFEC Requests.
Member Nawi seconded the motion, all were in favor.**

MODIFIED COMPLETION REPORT MONITORING PROGRAM UPDATE

Mr. Clay Brandow, Watershed Specialist, CDF, gave a PowerPoint presentation update on the Modified Completion Report Monitoring Program, between 2001 and 2004. A copy of the presentation was included in the Board Binder.

REPORT OF THE UNITED STATES FOREST SERVICE

No report.

PRESENTATION ON THE BOARD'S DRAFT POLICY STATEMENT

Executive Officer Gentry said a policy statement is required by statute following a comprehensive assessment by FRAP, which was completed at the end of 2003. The Board's strategic planning is designed to clearly define and communicate internally and externally what the Board is and what it does, and to establish the Board's fundamental guiding values and priorities. This planning will focus resources and efforts on the most important issues that will promote and create the Board's and Department's desired future, as well as, measure and report performance (both successes and setbacks). This reporting will provide for an improvement cycle that allows the Board and Department to make informed changes when necessary.

The key elements of this plan includes: Mission statement, Vision Statement, Values Statement, External Assessment, Internal Assessment, and Programmatic Goals, Objectives and Strategies.

By the end of next week the Executive Officer will finalize the draft plan, "Draft 1", which will then go out for distribution and will be noticed for public hearing at the regularly scheduled meeting in Redding. That will be the first public hearing on the draft. Based on the input received at Redding, it will then come back to Committee in October for further revision. "Draft 2" will be issued following the October Board meeting and go out for another hearing with the November Board meeting in Sacramento. At the November Board meeting, after receiving input, the Board will then finalize the Policy Statement in December. After adoption of the Policy Statement, the next phase will have two concurrent activities for each of the goals. A work plan will be developed to achieve the objectives that are outlined. Staff envisions following something similar to the Oregon model. The key strategies will be outlined in the Board's Policy Statement. As agenda items are developed and as actions are taken by the Board, they will be able to be referenced to each of the key issues. Therefore, a scorecard will be developed each year that will show what the Board has done in terms of achievement toward each of the items. Also at the end of each year, the Board will be able to evaluate, based on public comment, what it needs to alter in overall strategic direction – this is to ensure overall accountability and transparency.

08-02-13: Member Nawi made a motion the Board authorize the Executive Officer to finalize the first draft of the document that is proposed to go out in a week for Board consideration at the September Board meeting with public comment. Member Ostrowski seconded the motion. All in favor.

The Executive Officer will distribute the new version of the Policy Statement to members and post on website.

Chairman Dixon wanted to be sure the public was aware of the hearing next month.

UPDATE ON THE DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) FOR JACKSON DEMONSTRATION STATE FOREST (JDSF) DRAFT MANAGEMENT PLAN

At last month's meeting the Board adopted direction to the effect that the Executive Officer with assistance from CDF staff will develop an alternative for the Board to consider that would focus on research and demonstration. It would not necessarily be a mix and match of all the alternatives presented in the DEIR, but would be in the scope of the DEIR.

ADOPTION OF RESOLUTION FOR FOREST LEGACY PROGRAM: SUNNY BRAE TRACT

No report.

UPDATE BY THE DEPARTMENT ON COHO/FISH AND GAME CODE §2112 REGULATIONS

Mr. Bill Synder, Deputy Director for Resource Management, reported on a rule package to harmonize Fish and Game 2112 Regulations with the Forest Practice Rules. Mr. Dennis Hall has been taking the lead on this. The Department has essentially completed that process. Within a couple of weeks, the Department should have a draft package for the Board. Mr. Synder met with DFG and asked them to consider some revisions or alternatives. It is the desire of the both departments to bring this forward to the Board with some alternatives built in.

Member Giacomini asked Mr. Synder as they harmonize the package, are they analyzing it as they line up to the T/I Rules.

Mr. Synder said there are three primary elements to the 2112 piece: (1) a definitional piece, (2) a watercourse and lake protection provision, and (3) a section on roads. Mr. Synder said the side-by-side piece is a good suggestion.

Mr. Mark Stopher, DFG, said that with respect to developing a document that integrates the prescriptive parts of the 2112 and the Forest Practice Rules, there are no major technical problems. Mr. Stopher said the DFG will need to adopt regulations and the preferred approach, as articulated by Secretary Chrisman, is that they would integrate all of the prescriptive pieces of the Forest Practice Rules. If that were done, the Department's regulations would take less time to do because they would not have to do an independent CEQA review. DFG would need to adopt regulations for the process of issuing Incidental Take Authorization for coho salmon in the State of California. One option would be to prepare a timber harvest plan or NTMP using the standards articulated in the Forest Practice Rules. If that is done, you would have to fill out a 2-page self-certification and send it to DFG. The other long-term, large-scale advantage to integrating into the Forest Practice Rules is that the Board would have a package that could go to NOAA Fisheries and present it to them as a state proposal. The Board would be able to say that this is what they did in Washington state, it is an equivalent level of protection for salmon, and meets the criteria of the Federal Endangered Species Act, and apply it to watersheds with steelhead and Chinook that are listed as well. Where there federally listed species (coho in the Central Coast Region), you could not get a take authorization under that approach. What you could get is an enhanced set of Forest Practice Rules that provide a greater level of protection for coho salmon in that ESU, which would factor into a recovery plan under the federal act, and can also factor into any consideration in the future as to what proper listing category is for coho salmon there. It might be a basis for reconsidering the endangered status of that species and whether or not it could be listed as threatened. DFG has the draft regulations in a form they are satisfied with.

The critical item preventing DFG from going forward with this was the lawsuit challenging the listing of coho salmon. DFG's view is that they have a favorable court decision relative to that listing. It is a valid listing, and DFG is prepared to go forward, and there is no reason not to do so. DFG's preferred avenue is to do this in conjunction with the Board and CDF so there would be one set of prescriptions for forest practices in California. It would shorten the process for incidental take authorization under the State act, and a valid, sound, compelling proposal to go to the federal government which should resolve incidental take authorization for all listed salmonids. Mr. Stopher hopes that path is to go with expedited, integrated regulations. Mr. Stopher said it would be regretful if we had to go back and say the integrated approach does not appear to be feasible.

Member Giacomini asked if the Department's (DFG) regulation would then be a process piece, at what point is a determination made whether someone is avoiding take or needs to get an incidental take permit.

Mr. Stopher said DFG's process outlined some alternatives for landowners. Assuming we are only looking at DFG's regulations, the regulations establish a procedure, some criteria for the Department to use in determining whether incidental take may be likely to occur. Some options at that point include: do you already have a HCP or NCCP that cover coho salmon, if so, then you are finished with this process, there are no further modifications for the THP needed. One option would be to consult with DFG, and they might make modifications in the THP before approval just as they do with other listed species that would avoid take, at least for the state act, but it does not mean you are off the hook under the federal act. Other options include: integrating all measures into THP and self-certify to the Department, DFG would review the THP, make sure the measures are there, and sign the certification saying DFG agrees you have met the standards and any incidental take is hereby authorized. There are other options as well; one of them is to say I don't like those measures we would rather go with a site-specific or watershed-specific, or landowner-specific incidental take permit process. There are existing regulations that describe how that happens, including the information requirements for what has to be submitted for that. You have to get individual CEQA compliance for that project and it can be any set of measures you want to propose that would meet the issuance criteria under CESA. This process is likely to take a substantial period of time, to say two years is optimistic, as opposed to the self-certification process to get authorization from the Department in a matter of days.

Member Nawi said this would not provide authorization under the federal statute, but if there were a 4D exception for those areas where the species was listed as endangered they would have a similar process.

Mr. Stopher said that was correct they would be prepared to that standard.

Member Ostrowski asked if one were to apply for an amendment to the 4D rule for forestry in California would they have to wait until we are done with both the state (CDF and DFG) forestry process.

Mr. Stopher said that was not the case. The state would have to apply for the 4D, but Mr. Stopher's understanding was that they could be pursued simultaneously. Mr. Stopher doesn't think we are very far away from 2112, with the existing Forest Practice Rules being sufficient. When you compare the elements of the Washington State HCP with our current Forest Practice Rules, as amended by the prescriptive elements, Mr. Stopher would argue that the

California proposal would be comparable to the Washington State HCP. Another element that has not been addressed so far is some component to monitor the implementation effectiveness of the proposal into the Forest Practice Rules. It is necessary for CESA and Mr. Stopher thought the Board of Forestry would also want that to have an opportunity to specifically look at the measures in terms of implementation and future adaptations to the Forest Practice Rules. Realistically, you cannot expect that kind of monitoring to provide effective data in any short time period. If a THP were approved, for example, under the amended, integrated Forest Practice Rules and 2112, that THP might not be operated on for three to five years.

Chairman Dixon had a conversation with Mr. Crawford Tuttle, Chief Deputy Director for CDF, yesterday relative to this subject. At the end of the discussion, Mr. Tuttle asked Chairman Dixon what he would propose to put this process in motion and to not preclude the Board's options for adopting these regulations so that they could be effective January 1. Chairman Dixon told Mr. Tuttle he would need the support of the Secretary Chrisman, the Department of Fish and Game, and CDF. Mr. Tuttle indicated that he would make sure that the Board would have available to them at a special meeting, probable to be set in the third week of August, a draft of the regulations and language for package. Hopefully that one-day stand-alone meeting would end up having the necessary vote to put the package out for a 45-day notice. Mr. Tuttle indicated that he thought that would be acceptable and he would dedicate himself to meshing the agencies necessary to get that to the Board in time. Chairman Dixon understands that is not acceptable with some, but Chairman Dixon feels the Board needs to play a major role in this process. The science that allowed the Fish and Game Commission to list the fish initially was thoroughly considered. Since the listing, the Coho Recovery Plan has been adopted. A lawsuit has been filed, and the listing has been upheld, and no one knows if that will be appealed, but Chairman Dixon doesn't feel the Board should delay getting involved in the process pending what might happen with the appeal. Chairman Dixon proposed to the Board to ask the Executive Officer to set a public meeting in Sacramento sometime during the third week in August. The discussion that would take place at the meeting would be instrumental in moving this process forward as Secretary Chrisman has requested. The timing will allow the Board a 45-day notice with an additional 15-day notice. If the Board chooses to not become involved in the process, then the Department, within one year, would implement their own regulations. If it goes there, Chairman Dixon feels the Legislature will intercede in the process before that year takes place. Chairman Dixon encourages the Board to consider his request and authorize the Executive Officer to proceed with making the logistical arrangements.

Member Giacomini said she thinks having a meeting in August is fine, her concern is that Board members have not seen the language, they have not seen the harmonization process, and what is necessary and what is not necessary with the science review going forward. If the Board holds the special meeting Member Giacomini would like to have the matrix, and the rule language there to work on. Member Giacomini felt it would be more open in the process if the public were allowed to have the words on paper so it can be fully discussed, and then make a determination at that point if this is right for a 45-day notice.

Chairman Dixon agrees about the matrix and the language and any other documentation that needs to be before the Board to consider putting the 45-day notice out. Chairman Dixon believes that the process that the Fish and Game Commission went through to list the fish has been fully embedded in the process.

Member Nawi believes what Member Giacomini and Chairman Dixon were proposing was totally consistent. Member Nawi understands Chairman Dixon's proposal to be that the Board have a meeting the third week in October, but in advance commit to taking a particular action. Member Nawi believes the point of the meeting would be that the draft harmonized language would be available to the Board and public in advance, and the Board would take public comment on it, and then consider at that point if it would be right to authorize the issuance of the 45-day notice.

Member Rynearson said this is a bigger issue than just the 2112 or T/I Review. The new proposal before the Board is essentially covering the entire T/I area. Member Rynearson is fully supportive of merging the 2112's into the Forest Practice Rules, and addressing the T/I all at the same time, and having a comprehensive set of rules that allow landowners to understand what they have to do meet the standards of fish and anadromous fisheries protection and to have the one-stop shop. Member Rynearson fully supports what Secretary Chrisman asked. Member Rynearson wants to hear from NMFS, members of the regulated public, and other agencies involved in the process so he can fully understand how the whole system will work. Before the Board reviews a draft package or takes any action, they need to bring in all the other parties and hear what they have to say as to how it works.

Chairman Dixon asked if Member Rynearson would be willing, if the harmonization of the process takes place, if the information gets presented, if the agencies that you suggested are there and willing to make commitments and answer questions, would he be willing to send out a 45-day notice that day.

Member Rynearson said no, because he would not want to be predisposed to any position, because he has not gotten any information or heard from the other entities he wanted to hear from. Mr. Rynearson said he fully supports a workshop to review and discuss the issues and how the whole thing fits together; but there are a huge number of issues.

Chairman Dixon asked Member Rynearson to put his concerns in writing so Mr. Dixon may share them with the Chief Deputy Director. In yesterday's conversation with Mr. Tuttle, Chairman Dixon said there are questions out there and there will be push back from even listing on the agenda the possibility of a sending out a 45-day notice at the end of that discussion, but Chairman Dixon wants the 45-day notice on the agenda because he wants Mr. Tuttle and others involved in this process, including Secretary Chrisman, to provide the kind of information that the Board asked for. Chairman Dixon doesn't want the Board hanging out there saying we are going to expedite a process without the total cooperation of Resources, Fish and Game, CDF, and other agencies that are relevant to this discussion and debate.

Member Ostrowski said he had a lot of questions, some were answered in Committee, some were not. Member Ostrowski hopes both departments took notes yesterday at Committee and will bring back answers. Mr. Ostrowski doesn't think there is disagreement or discussion of the science of the listing. The science and effort that has gone into recovery is totally different from the science that the Board was looking at in their science review for adequate protections for habitat, as well as protections to avoid take. Mr. Ostrowski believes this is the key difference between the 2112, which is essentially saying where there a likelihood of take – additional measures must be in place before a permit to take is allowed. Member Ostrowski is supportive of the workshop.

Chairman Dixon said in his previous conversation with Mr. Tuttle, Chairman Dixon indicated to Mr. Tuttle that the Forest Practice Committee had designated Members Nawi and Ostrowski to be liaisons for the integration/harmonization process. Chairman Dixon asked Members Nawi and Ostrowski to help design an agenda for the special meeting to address these issues.

Member Nawi supports the Department working with DFG as fast as they can to put together a harmonized package for the Board and public for review, working with the agencies, and then having a special board meeting where the Board will give full consideration to all the issues surrounding this, with the potential of issuing a 45-day notice on the package received, or as the Board would direct it to be changed.

08-02-16: Member Nawi moved that the Executive Officer notice a meeting of the Board for the third week of August in Sacramento, a meeting of the full Board, Special Meeting, to consider a rule-making proposal which the Board anticipates to reflect the joint views of the Department of Fish and Game and CDF for integration of the rules that satisfy the requirements of Section 2112 of the Fish and Game Code and allow the issuance of Incidental Take Permits without a substantive review by the Department of Fish and Game into the Forest Practice Rules, and that they consider that package for potential release for a 45-day notice or any other action the Board might choose at that time. The Board both requests and encourages both CDF and DFG to consult with other affected agencies, specifically the water boards to the extent they are available – both state and regional boards, NOAA Fisheries, NMFS, and to work with the Resources Agency. Member Saito seconded the motion.

Member Ryneanson said he heard in the motion that the Board and its staff invite other agencies to participate in this discussion, specifically NOAA Fisheries and perhaps Fish and Wildlife.

Member Nawi accepts the amendment. As seconder of the motion, Member Saito also accepts the amendment.

Member Ryneanson wants the meeting to be agendized and have presentations and discussions to the questions Chairman Dixon asked Member Ryneanson to be articulated.

Member Nawi accepts the second amendment to the motion. Member Saito also accepts the second amendment. All in favor of motion.

Public Comment:

Mr. Bill Keye, representing California Licensed Foresters Association, recalled Secretary Chrisman saying let's get this issue in gear, at last month's meeting; but he didn't say do a 45-day notice. Mr. Keye was surprised to see the 45-day notice on the agenda. Mr. Keye noted that this process will take DFG one year, and wondered why it should not take the Board about the same amount of time. Mr. Keye is in favor of harmonizing the 2112 regulations into the Board of Forestry rules, but feels the timing is unfortunate. He would rather take chances with the legislature rather than move forward in haste.

Mr. Arne Hultgren, representing Roseburg Resources, said the Board cannot ignore the fact that this is a big political issue. The 2112 rules are extremely prescriptive and more restricting than the current T/I Rules. Mr. Hultgren would like to hear from NOAA Fisheries, Crawford Tuttle, DFG, and a representative from Agency to sort through the issues. Mr. Hultgren urged the Board to proceed very carefully.

Mr. Andy Morse, representing Big Creek Lumber Company, was concerned that DFG said monitoring needs to be included in this process. Monitoring can be very complicated to do. Monitoring seems to go with a more performance based rule, but these are very prescriptive regulations. Mr. Morse said that the 4D rule would not apply in the in this area (the southern subdistrict) because of the difference of the listing of coho. An Incidental Take Permit may not have any applicability in this part of the state.

Mr. Bob Berlage, representing Big Creek Lumber Company, said Big Creek supports Option 2, from the recommendations from the Forest Practice Committee, which was supported by the Forest Practice Committee on Tuesday. Mr. Berlage said what is being proposed in the current motion is different from the Committee's recommendation with respect to the 45-day notice. In the last forty years, Big Creek Lumber Company has not had a single scientific document that associates legally-conducted selective timber harvesting with harm to coho salmon or any other anadromous species. He said the Board is proposing, with their special meeting, is to adopt a set of rules and regulations that are considerably more restrictive than what their company is currently operating under, in addition to the T/I restrictions. He is confident, based on observation and the lack of science to substantiate the fact that they are doing anything to harm the fish. The Forest Practice Committee had a group of small landowners attend their meeting to voice concerns this process, specific elements of 2112, and the serious impacts it would have on them. In the recommendation of the Forest Practice Committee to fold this into the scientific review would help every one understand why any of the regulations would be applied in their area. Mr. Berlage has serious concerns that the Board is starting with a set of prescriptive regulations and going to work their way backward. Big Creek's supports Option 2 as opposed to the current motion.

Mr. Richard Gienger is supportive of the special meeting. Mr. Gienger feels it is important to acknowledge authority of the Department of Fish and Game. Mr. Gienger is concerned that the harmonized document should be in the public's hand 15-days before meeting.

Mr. Pete Ribar, representing Campbell Timberland Management, supports Mr. Berlage's comments about Option 2 that was discussed in the Committee. Mr. Ribar is extremely concerned about the motion before the Board because of its expedited nature and the tendency to move forward before all things can be fully considered. A one-day meeting for something so potentially devastating to their company and many small landowners to have it decided in a one-day meeting is hard to handle. He agrees with Mr. Gienger and would like to see the harmonized document ten days prior to the meeting to evaluate the package. Mr. Ribar agrees with Member Giacomini's recommendation to establish a matrix for review and comment.

Ms. Nadia Hamey, a Forester for Big Creek Lumber Company, said after working the last three years in this region, she observed that those streams with managed forest lands in the watershed have most healthy productive coho rearing habitat available in this county. Ms. Hamey is concerned about ramping up forestry regulations in order to restore and improve coho habitat when she sees the threats not related to their land use. The southern sub-district

has its own set of silvicultural prescriptions. Single tree selection is the rule, so they have continuous forest canopy left on plans post-harvest and they remain healthy forest lands. They have a lot of extra road mitigations that come into play. There is a lot of out-sloping and rolling dips. Ms. Hamey sees some of the prescriptions in the Incidental Take Permit guidelines that she has reviewed as being hampering to their operations. Rock is very expensive, the six inches of rock will put a lot of small landowners under. Ms. Hamey asked the Board to reconsider the "one-size-fits-all" guidelines before the Board. She believes site-specific is the way to go.

Ms. Jodi Frediani, representing the Santa Cruz Chapter of the Sierra Club, supports industry and keeping timberlands lands in production, the only way to do that is to re-zone them to TPZ, and she has seen a lot of resistance from small landowners and from Big Creek Lumber Company and other companies as well. Ms. Frediani supports the workshop at the end of the month and the 45-day notice. The 2112 rule development has been going on for some time, and Ms. Frediani feels this is long past due. She encourages the Board to move forward.

Mr. Paul Mason, representing the Sierra Club, sent letter to Secretary Chrisman supporting his efforts to incorporate the protections for coho salmon required by Fish and Game Code Section 2112 into the Forest Practice Rules. Board Members have a copy of the Sierra Club's letter. The regulations are coming whether they are adopted under DFG's statutory authority, in which case you could end up with Forest Practice Rules and T/I Rules here, and then have a separate set of regulations to comply with over here. Or you could have them all in the same place and make expectations easier to understand. Mr. Mason supports the special meeting.

Ms. Michelle Dias, representing California Forestry Association, said after hearing lengthy committee discussion Tuesday, she felt Committee members were leaning toward supporting Option 2. CFA supports Option 2 also. It felt to her that the Committee report was hijacked in a sense so that recommendation would not be put forward. CFA supports the option for rolling the 2112 Regulations into the T/I Literature Review. The first thing that needs to be done after the proposed rules are looked at is to review them to see if they are based on science. Ms. Dias quoted Chairman Dixon as saying "let the process begin". Ms. Dias wanted to share a paper she received several meetings earlier at the discussions of T/I Review at the Forest Practice Committee – a rule-making process outline. Ms. Dias said this is how the process should begin. The first item is define the need for rule, number 2 review pertinent literature and information, and it goes down to number 7 where you have rule adoption with agency and public input. Ms. Dias sees it that Chairman Dixon would like to skip from #1 to #7. This is not the process that needs to be taken here. Ms. Dias said the Board's authority is to adopt rules properly. Ms. Dias said there was no need for another meeting, and it is a hardship for people to come to the meeting. Ms. Dias asked the Board to not adopt the motion and to deal with this at next month's meeting.

Member Ostrowski asked if both departments will be ready to deal with this in three weeks.

Chairman Dixon said Chief Deputy Director Tuttle assured him that he would have the necessary discussions to produce what the Board had asked for. Chairman Dixon told Mr. Tuttle that the harmonization part is not the Board's issue, the integration is. Mr. Tuttle assured Chairman Dixon that whatever technical support was necessary would be provided.

Member Ostrowski said the public's concerns need to be addressed. Mr. Ostrowski hopes the Department comes back with answers on economic impacts, where this will be applicable,

enforceability and need. Mr. Ostrowski feels there could be a different perspective on how this applies by regions and landowners. Member Ostrowski said the Board needs clarification from the Committee and science to support. The whole intent of the science review was to review the rules and see where there were possible deficiencies or ineffectiveness.

Mr. Bill Snyder concurs with the Chairman's direction to have all the questions put together and given to the Department to work on. CDF will have a rule package for Board members before the special meeting. Mr. Snyder said CDF will do all they can to support this.

Member Nawi urged the Department to get the draft language out at the earliest possible date to give the Board and public a chance to review.

Member Ryneerson said it is extremely important to him that all parties are present at the workshop to answer questions. NOAA Fisheries, Farm Bureau, Cattlemen, etc. should be present. It is critical to have representation from all groups. Member Ryneerson said this is an extremely complex process and he is concerned about it. In the twenty years Mr. Ryneerson has watched the Board a rule package has never shown up at a meeting and pass a 45-day notice the same day. He doesn't feel the issue has been properly reviewed and discussed and had full opportunity to consider its implications. Mr. Ryneerson said it is extremely important to have all parties present with responses to the Board and Public's concerns and answers

Mr. Snyder said staff will be committed to assisting Board staff in putting this piece together.

Member Nawi said there a lot of issues these rules raise, it is very accelerated. Member Nawi supports going ahead, and looks forward to meeting.

REPORT OF BOARD'S COMMITTEES

Forest Practice Committee

Member Nawi, Chair of the Forest Practice Committee, said the Board had received four letters on the 2112 Regulations. The first letter was from Secretary Chrisman, the second letter was from the California Forestry Association addressed to Secretary Chrisman, dated July 27th, a letter from Sierra Club, signed by Paul Mason dated July 31, addressed to Secretary Chrisman, and a letter from Big Creek Lumber Company addressed to Member Nawi, dated August 1. All of these letters relate to the 2112 regulations to harmonize the Forest Practice Rules and the Fish and Game requirements under Section 2112 for an incidental take permit.

Mr. Mark Stopher, from Department of Fish and Game, gave a presentation to the Committee yesterday. The Department of Fish and Game has two options in pursuing the 2112 Regulations. One could go its own way in developing and adopting these regulations, and the second is the Board of Forestry could adopt the substance of 2112 Regulations which would be satisfactory for incidental take permit issuance. In terms of process, if the Board were to adopt 2112 Regulations into the Forest Practice Rules then the process for obtaining an Incidental Take Permit from DFG would be greatly simplified, and would consist of a self-certification by the operator that the appropriate prescriptions in the rules were included. DFG would be looking at a much longer schedule (January 2008); there was concern by Senator Kuehl about that timeframe. One option presented was for the Board of Forestry to seek to

expedite consideration and adoption of 2112 Regulations into the Board's regulations so this could be accomplished in time for the regulations to go into effect January 1, 2007. The Committee discussed the information DFG considered in their draft regulations as well as listing of the Coho and drafting of the Coho Recovery Plan. The Committee received comment supporting the harmonization of the 2112 Regulations and the Forest Practice Rules. There was a feeling on part of the public that to the extent that they can comprehensively address forest practices in a way that would allow the issuance of Incidental Take Permit with further substantive review, this would be a step forward for the Board, DFG, and for the regulated public. There was a concern that delaying adoption of the 2112 Regulations would not be in any one's interests. It has already been some time since that mandate has been in effect. To put together the 2112 Regulations and the ongoing review of the T/I Regulations could undo the adoption of the 2112 Regulations. There was recognition of the similarity of substance of the provisions and issues of both sets of regulations.

The Committee discussed three options for analytical purposes. The first would be to consider the inclusion of the 2112 Regulations into the Forest Practice Rules to be implemented on the first of the coming year. The Committee had hoped for a draft of the Regulations to be ready for the Committee to look at. There was ongoing review and consideration of the draft. There are further efforts to harmonize the Fish and Game draft of the 2112 Regulations with the T/I Regulations; they were not ready, but should be ready in a short time. The first option would be the rapid adoption and consideration of adoption of the 2112 Regulations.

The second option would be to combine the draft 2112 Regulations with the literature review that is ongoing for T/I Review. This would take some time, the provisions are similar.

The third option would be for the Department of Fish and Game to do this unilaterally.

The Committee saw some benefit in seeking to consolidate the regulations. Because the Committee did not have a draft of the regulations they could not consider proposing that the regulations be put out in draft for public comment for consideration by the Board authorizing the 45-day notice. The Committee appointed a subcommittee consisting of Member Nawi, Member Ostrowski to work with the Resources Agency, DFG, and CDF to work on this issue. The subcommittee would also consider recommendations or nominations to serve on the Technical Advisory Committee. The Committee will see if they can harmonize and come up with a rational process to go ahead with the 2112 Regulations, and not run afoul of the T/I Regulations.

Member Ostrowski said the key issue is the Fish and Game program for incidental take is still their authority and responsibility to issue.

CDF's Chief Legal Counsel said that if the 2112 Regulations were adopted after the first of the year, the potential for getting legislative approval and authorization for them to go into effect after adoption without being delayed until January of 2008 was possible.

Member Nawi said in connection for a consultant for literature review, the Committee was informed that the SWRCB will not put up the money to fund a consultant. At this time there is no funding for an independent consultant. The Committee hoped to have the funding issue resolved through discussions with the Resources Agency.

Mr. Zimny is working on the MOU for the Lake Tahoe Region and the associated Budget Change Proposal.

Policy Committee

Member Nawi said the Committee discussed the Draft Board Policy Statement and the Monitoring Study Group Strategic Plan. The Executive Officer and Mr. Cafferata will provide some options to the MSG Strategic Plan. The Committee discussed a MOU with Forest Practice Rules briefly and came up with a schedule to have two reports, one in May and one in November.

The Committee discussed legislative proposals, two of which were initially brought forward by CLFA. The first one was longer terms for THPs. The existing statute provides three years plus a possible two one-year extensions. An extension of this sort might be beneficial from a financial point of view for the landowners. They could time their actual harvest work to market conditions. It is unclear how beneficial it would be or how broadly it would be used. Some issues were raised regarding whether the environmental documentation would remain valid for beyond five years and effects on local economy. The Committee will come back to this next month. The Committee discussed another proposal for stocking standards. Mr. Bill Keye will determine from the appropriate people whether there is a need to really move forward with a potential change in statutory requirements for stocking standards; and if that is the case, provide a technical presentation to the Committee at the next meeting.

Mr. Dennis Hall is preparing a list of monitoring elements, which he will bring to the next meeting.

Management Committee

Mr. Ryneerson, Chairman of the Management Committee, said the Committee reviewed and discussed the responses provided by Board Counsel to questions Committee had submitted regarding the Mendocino Redwood Company letter on the Program Timberland Environmental Impact Report about PTIR processes. Chairman Ryneerson requested the permission of the full Board to move forward in developing a response letter to Mendocino Redwood Company. The letter would be formulated by the Committee then brought to the Board for approval and possible action item for September.

08-02-17: Member Ryneerson moved to have the Management Committee prepare a response letter to Mendocino Redwood Company, the letter would be brought back to the Board for approval and possible action for September. Member Giacomini seconded the motion. All in favor.

The Committee heard a presentation by Deputy Director Bill Synder on the Status of Boggs Mountain Demonstration State Forest Management Plan. They are currently reading a rewrite of the Management Plan, and they are in the process of determining the applicable CEQA process to implement the Management Plan. Mr. Ryneerson anticipates that the CEQA draft may be ready as early as 2007. The Board will be the lead agency on CEQA process. CDF has asked the Board specifically to pass a motion that provides them the authority to continue operating under the existing plan until a new plan is in place.

08-02-17: Member Ryneerson made a motion to provide CDF the authority to continue operations under the existing Management Plan until the new plan is in place. Member Giacomini seconded the motion. All in favor.

The Road Management Planning Hearing will be held September 14 in Redding. The SNTMP discussion will be at Committee meeting on the 14th of September, and also a presentation by the SNTMP Subcommittee at the Board meeting in September.

Resource Protection Committee

Member Giacomini reported that the Committee received a proposal from PG&E, a large tree stem powerline exemption to the Rules. They gave the Committee a potential rule package. The Committee asked for background of the science that brought them to that point to be brought to next month's meeting for review. The Committee wanted to agendized this as a possible action for a 45-day notice.

A subcommittee, consisting of Members Bosetti and Giacomini, for the Vegetation Treatment Program EIR will meet with the Contractor to review progress on the VTP Program Review. At a previous meeting there was a request to submit a letter from the Board to the Director requesting access to information and assistance as they go through the work plan process. A member of the public from the Monterey Fire Safe Council wrote a letter requesting policy clarification on liability for control burn escapes and interpretation from the Board. They received some feedback from the Department formally, but it remained unclear to them and they were appealing to the Board for clarity on that issue. This will be agendized in the future to flush out all of the liability issues as they relate to vegetation treatment programs.

Mr. Zimny said they are beginning to back up on their General Plans; they are almost overdue on the City of Truckee. Recently, the Committee received requests from the City of Sonoma and the City of Claremont. The Committee was informed that San Bernardino County and the County of Calaveras are in the process of amending their General Plans.

REPORT OF THE REGULATIONS COORDINATOR

Mr. Chris Zimny, Regulations Coordinator, reported there will be two regulatory hearings at the September Board meeting. The initial 45-day notice hearing for the Aspen Restoration Rule and for the Road Management Plan. One regulatory item left over that was not resolved at last month's hearing was the CLFA Watercourse Streamlining issue. At the July hearing, there was direction from the board to make minor amendments and issue a 15-day notice for two of the three components of the regulatory package. The two that are recommended to the Board for a 15-day notice were the sample marking along streamcourses and the component for emergency operations, involving timber removal in WLPZs and threatened or impaired watersheds. The third item that was not passed was the relief for T/I Rules for watershed reaches that have barriers. The direction from the Board was to consult Fish and Game to see if there is any resolution to include amendments or options to that as part of the 15-day notice – there was no progress on that. Fish and Game has continued their position of non concurrence on that rule. Mr. Zimny and Member Nawi were looking for direction on how to handle the processing of last month's amendment to where we are now.

Member Nawi said the issue should be addressed in the process of harmonizing 2112 and the T/I Regulations. Member Nawi said there was no harm waiting until September to see if the issue can be resolved in a way that bridges the gap between the proposed T/I and Fish and Game's needs.

Chairman Dixon had no objection to extending one month.

In reference to 2112, Mr. Zimny wanted to make sure that Board members understand the regulatory timeframes for any of the options they may consider at the scoping period. If the Board has a meeting on August 22 where one of the possibilities is noticing a 45-day notice, that 45-day notice could not begin until September 8th, and the earliest possible hearing date as a result of that 45-day notice would not be until a special hearing on October 24. That date is beyond the time period that OAL and the Secretary of State need to have the rule processed through them prior to the Board's January 1 effective date.

Chairman Dixon directed Mr. Zimny to request an expedite of review from OAL. This has been successful on routine packages.

REPORT OF EXECUTIVE OFFICER

No report.

PUBLIC FORUM

Mr. Richard Gienger mentioned the passing of Tim McKay. Mr. Gienger hopes the Board will not run into trouble with Boggs. Mr. Gienger encouraged the Board to keep nominations open for another month, since there is no money for a consultant.

NEW AND UNFINISHED BUSINESS

No new or unfinished business.

ADJOURNMENT

Chairman Dixon adjourned the meeting of the Board of Forestry and Fire Protection.

RESPECTFULLY SUBMITTED,

ATTEST:

GEORGE D. GENTRY
EXECUTIVE OFFICER

STAN L. DIXON
CHAIRMAN